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In re Application of:

ZHANG

Serial No.: 09/987,607

Filed: November 15, 2001

Attorney Docket No. 740756-2395

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the renewed petition filed October 24, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn. A decision on the previous petition was mailed October 7, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed November 3, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner asserts that a response to the non-final Office action was timely mailed to the US Patent and Trademark Office on February 3, 2004 via regular mail. This is evidenced by 1) a copy of the response to the non-final Office action containing a certificate of mailing and 2) a declaration by Adele M. Stamper attesting to the personal knowledge of the mailing of the response.

The response to the non-final Office action is not of record in the application file and cannot be located. However, the procedure for determining whether a response is considered timely filed by being mailed but not received in the Office is set forth in 37 C.F. R. § 1.8.

Under 37 C.F. R. § 1.8, correspondence which includes a certificate of mailing, stating the date of deposit, may be considered timely even if not received timely by the Office. The Office must receive 1) timely notification of the previous mailing, 2) an additional copy of the previously mailed correspondence and certificate, and 3) a statement which attests on a personal knowledge basis that the earlier correspondence was timely mailed.

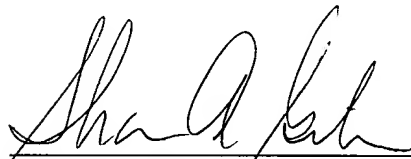
Absent such a certificate of mailing, under 37 C.F. R. § 1.6, correspondence received by Office is stamped with the date of receipt, unless the correspondence was deposited as "Express Mail" or as a facsimile transmission.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the response to the non-final Office action. From there the application file will be forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

A handwritten signature in black ink, appearing to read "Sharon A. Gibson", is written over a horizontal line.

Sharon A. Gibson, Director
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